IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6509 of 1997

For Approval and Signature:

HONOURABLE MR. JUSTICE B.J.SHETHNA
HONOURABLE MR.JUSTICE H.B.ANTANI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BARODA MUNICIPAL CORPORATION - Petitioner(s)
Versus
SHOBHNABEN MAHENDRAKUMAR SHAH - Respondent(s)

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Appearance :
MR PRANAV G DESAI for Petitioner(s) : 1,
MR RD RAVAL for Respondent(s) : 1,

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CORAM : HONOURABLE MR. JUSTICE B.J.SHETHNA

and

HONOURABLE MR.JUSTICE H.B.ANTANI

Date : 11/01/2007

ORAL JUDGMENT

(Per : HONOURABLE MR. JUSTICE B.J.SHETHNA)

Petitioner-Baroda Municipal Corporation has filed this petition under Articles 226 and 227 of the Constitution of India and challenged the impugned judgment and award passed by the Industrial Tribunal, Vadodara in Reference (IT) No.30 of 1996 whereby the learned Tribunal partly accepted the reference and directed the Corporation that the salary of lady worker-Smt.Shobhnaben Mahendrakumar Shah be revised with effect from 1.1.1986 and she may be given notional pay from 1.1.1986 to 31.3.1993 in the scale of Rs.1400-2300 and the difference of actual salary be paid to her with effect from 1.4.1993 till the payment is made with 12% interest on it and with costs of Rs.1,000/-.

The aforesaid impugned judgment and award passed by the learned Tribunal was to be implemented within 30 days from the date of its publication, but the same was not implemented by the petitioner-Corporation within that period, instead they have preferred to challenge the same by way of this writ petition in June, 1997. However, matter was admitted only on 1.4.2005 by the Division Bench of this court, but interim relief was specifically refused. Even though the interim relief was specifically refused, the petitioner-Corporation did not comply with the impugned judgment and award passed by the learned Tribunal. Thus, the petitioner-Corporation had granted stay to itself, which was not proper. When this petition was placed

before another Division Bench on 27.9.2006 it was brought to our notice that the Corporation has still not complied with the award, therefore, direction was issued to the petitioner-Corporation to first comply with the impugned judgment and award. At last, the award is complied with, as stated by Shri Desai learned counsel for the petitioner-Corporation.

Only contention raised in the petition by leaned counsel Shri Desai for the petitioner is that the lady worker-Smt.Shobhnaben Mahendrakumar Shah is not entitled because she was lacking education qualification. As per his submission, minimum education qualification is B.Sc., whereas she had passed only Inter (Science). However, from the impugned judgment and award passed by the learned Tribunal it is clear that though she had passed Inter (Science), but she was having degree of D.M.L.T., which was equivalent to B.Sc. degree. In that view of the matter, if the learned Tribunal passed the award in favour of the lady worker, then we would certainly not like to interfere in our limited jurisdiction under Article 227 of the Constitution.

Though this petition is labelled both under Articles 226 and 277 of the Constitution of India, strictly speaking it is a petition under Article 227 of the Constitution of India, the scope of which is very narrow and limited, as held by the Hon'ble Supreme Court of India in umpteen number of decisions that this court shall not interfere with the order

passed by the Tribunal even if factual error or error of law is committed. This court can interfere with the order passed by the Tribunal only if there is jurisdictional error which is none in this case.

Before parting, we must state that the conduct of the petitioner in not complying with the impugned judgment and award for considerable time also disentitles it from any discretionary relief from this court.

In view of the above discussion, this petition fails and is hereby dismissed. Rule discharged. No order as to costs.

(B.J.SHETHNA, J.)

(H.B.ANTANI, J.)

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